

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

The State of KANSAS, State of NORTH
DAKOTA *et al.*,

Plaintiffs,

v.

UNITED STATES of AMERICA and the
CENTERS FOR MEDICARE &
MEDICAID SERVICES,

Defendants.

Civil Action No. 1:24-cv-00150-DMT-CRH

MOTION FOR CLARIFICATION OF COURT’S STAY ORDER

On August 30, 2024, Plaintiffs moved for a preliminary injunction and a stay of Defendants’ Final Rule. *See* ECF 35. On December 9, this Court issued an Order granting Plaintiffs’ motion for a preliminary injunction and a stay. ECF 117 at 16-17. In its Order, the Court explained that the preliminary injunction meant that Defendants are “enjoined from enforcing the Final Rule against the 19 Plaintiff States.” *Id.* at 18.

But the Order did not elaborate on the effect of the stay and did not directly state that it applied beyond the 19 Plaintiff States. A stay under 5 U.S.C. § 705 ordinarily operates on the agency action itself and not the parties. *See* ECF 81 at 15.

In order to determine whether a cross-appeal is necessary, Plaintiffs respectfully move for a clarification of the Order.

Submitted this 30th day of December, 2024,

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